

## REMARKS

Claims 1-37, 45-46 are cancelled. Claims 38, 40, 43, 47, and 50 are currently amended. Claim 39, 41-42, 44, and 48-49 were previously presented. New claims 51-61 are added. As a result, Claims 38-44, and 47-61 remain pending the application.

### **Rejection of Independent Claim 38 Under 35 USC §103(a)**

Independent claim 38 stands rejected as being unpatentable over U.S. Patent Number 6,466,341 (Lumish) in view of U.S. Patent Number 5,917,626 (Lee). The Office Action indicates that prior claim 46 would be allowable if re-written in independent form. Claim 46 depended from Claim 45. Accordingly, Applicant has amended Independent Claim 38 to include subject matter from Claims 45 and 46. In particular, Independent Claim 38 is amended to specify that the channel selector is “configured such that when the channel selector is in the first channel mode, a first alternate optical channel traveling from the add/drop node to the channel selector travels from the channel selector to the output node with a different bandwidth than the first channel directed to the add/drop node by the channel selector.”

### **Rejection of Claim 40 Under 35 USC §112**

Claim 40 stands rejected under 35 USC §112 for indefiniteness. Claim 40 is amended. The amendments address the indefiniteness rejection by establishing that the first filter element and the second filter element are included in the channel selector and also establishing that first filter element and the second filter element can receive the first channel and direct the first channel to the add/drop node. Accordingly, claim 51 establishes relationships between the first filter element and the second filter element and the other claim elements.

### **New Claim 51**

The Office Action indicates that Claim 40 would have been allowable if corrected for indefiniteness. Prior Claim 40 depended from Independent Claim 38. Accordingly, Applicant has added new claim 51 that includes subject matter from both prior Independent Claim 38 and Claim 40. In particular, new Claim 51 specifies that the channel selector includes “a first optical filter element configured such that when the channel selector is in the first channel mode and the

first optical filter element receives the first channel, the first optical filter element directs the first channel to the add/drop node with a first bandwidth when the channel selector first channel mode. New claim 51 also specifies that the channel selector includes “a second optical filter element configured such that when the channel selector is in the first channel mode and the second optical filter element receives the first channel, the second optical filter element directs the first channel to the add/drop node with a second bandwidth, the second bandwidth being different from the first bandwidth.” New Claim 51 addresses the indefiniteness rejection because it establishes that the first filter element and the second filter element are included in the channel selector and also establishes that first filter element and the second filter element can receive the first channel and direct the first channel to the add/drop node. Accordingly, claim 51 establishes relationships between the first filter element and the second filter element and the other claim elements.

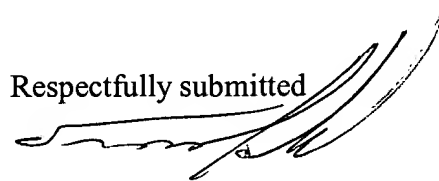
#### **Rejection of Claims 38, 39, 44, 45, and 50**

Claims 38, 39, 44, 45, and 50 were rejected as being unpatentable over U.S. Patent Number 6,466,341 (Lumish) in view of U.S. Patent Number 5,917,626 (Lee). It is submitted that because Dependent Claims 38, 39, 44, 45, and 50 depend from Independent Claim 38, which is believed to be in condition for allowance, these claims are also in condition for allowance.

## CONCLUSION

In light of the Amendments and arguments set forth above, Applicants believe they are entitled to a letters patent. The Examiner is encouraged to telephone the undersigned with any questions.

Respectfully submitted



TRAVIS DODD  
Reg. No. 42,491

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Law Offices of Travis L. Dodd  
A Professional Corporation  
2490 Heyneman Hollow  
Fallbrook, CA 92028  
Telephone 1: (760) 415-2352  
Telephone 2: (760) 731-3091  
Fax: (760) 728-1541